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EXAMINER

BELLINGER, J

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 05/04/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/280,874

Applicant(s)

SPIES ET AL.

Examiner

Jason R Bellinger

Art. Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☒ received.
 2. ☐ received in Application No. (Series Code / Serial Number) ____.
 3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.

- 17) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other:

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Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:
Detail 38. Correction is required.

Specification

2. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.
3. The disclosure is objected to because of the following informalities: Page 1, line 33-34, the word "so" should be moved from between the words "is" & "to" to after the word "portion". This correction is for clarity.

Appropriate correction is required.

Claim Objections

4. Claims 1-8 are objected to because of the following informalities: the word "characterised" should be replaced with the word --characterized--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1& 5 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 states that the base plate is "of an incision-free nature". The Specification does not fully describe what exactly this incision free nature comprises, possibly due to a literal translation. Claim 5 states that the base plate is "of a tongue free configuration". Lines 17-20 of page 3 of the Specification describe a base plate as being "incision free, that is to say it is in the form of a tongue free base plate". Then in line 20, the Specification describes the base plate as having a tongue 15. Therefore, it is unclear whether the base plate does or does not have a tongue.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 1, line 5, "an abutment" is inferentially claimed. It is unclear where this abutment is located, and what feature of the crawler track link member is being referred to as "an abutment". In line 6 & 8, "a tubular body" is inferentially claimed. It is unclear

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what feature of the invention is being referred to as "a tubular body". In line 7, "guide grooves" are inferentially claimed. It is unclear where these guide grooves are located. In lines 10-12, the phrases "can be lifted" and "can be fitted" are indefinite due to the fact that it is unclear whether or not the actions of lifting and fitting are actually performed by the invention. In line 11, "a lever" is inferentially claimed, due to the fact that it is unclear whether or not the lever is part of the invention and where the lever is located.

Claim 4, line 3 recites that the angle of the base plate is formed "by non-cutting shaping as by impressing"; this phrase is indefinite due to the fact that the term "as" is taken to mean "such as", making it unclear whether or not the angle is formed by impressing or some other form of non-cutting shaping.

In Claim 6, line 3, it is recited that the abutment "...can be bridged over..."; this phrase makes the claim indefinite due to the fact that it is unclear whether or not the abutment is bridged over. In line 3, "an abutment" is inferentially claimed. It is unclear where this abutment is located, and what feature of the crawler track link member is being referred to as "an abutment".

Claim 8 is indefinite due to the fact that it is unclear how the doubled curvature portion of the base plate is utilized. The term "as" in the phrase "as an abutment" is taken to mean "such as", and is therefore it is unclear how the doubled curvature portion of the base plate that is formed by shaped zones can act as an abutment.

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9. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. An example of narrative language in the claims is the phrase "...by virtue of..." in Claim 1, line 11.

10. Claim 1 recites the limitation "the slide-on portion" in line 7. There is insufficient antecedent basis for this limitation in the claim. The preamble discloses a only a crawler track link member having guide grooves and a retaining means that can retain slide-on portions such as travelling pads, studs, etc. There is no positive recitation of the crawler track link member having a slide-on portion.

11. Claim 1 recites the limitation "the projection" in lines 9 & 11. There is insufficient antecedent basis for this limitation in the claim. The preamble discloses a only a crawler track link member having guide grooves and a retaining means that can retain slide-on portions such as travelling pads, studs, etc. There is no positive recitation of the crawler track link member having a projection.

12. Claim 6 recites the limitation "the sliding direction" in line 3. There is insufficient antecedent basis for this limitation in the claim. A sliding direction is not defined in the preamble of Claim 6, nor in the whole of Claim 1 from which Claim 6 depends.

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Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korner in view of Parker (European Patent Application 0044137) and in further view of Ley. Korner shows the use of a crawler track link with guide grooves 9 & 10 into which a travelling pad 12 slides. The travelling pad 12 has a base plate 15 to which the pad is vulcanized. Korner shows a base plate 15 having a double curvature. Korner also shows the use of a base plate having intermediate plates 13 & 14 that engages the guide grooves 9 & 10.

Korner does not show the use of a crawler track link member having a retaining means having an incision-free nature. In Figures 5-9, Parker teaches the use of a crawler track link member with guide grooves & retaining means for a slide-on travelling pad having a resilient base plate 30 with a retaining region 32 having an incision-free nature. This retaining region 32 forms an angle with the main plane of the main base plate 30; and is formed by non-cutting shaping. From this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the retaining region having an incision-free nature of Parker to the crawler track link of

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Korner for a more resilient and stable means for securing the crawler track link to the track.

Korner does not show the use of a retaining means in which the base plate can be pushed over using a lever fitted into an opening. Ley teaches the use of a retaining means in which the base plate can be pushed over using a lever fitted into an opening

13. From this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the opening & means for releasing the crawler track link of Ley to the crawler track link of Korner as modified by Parker for ease of replacing worn travelling pads.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered to show crawler track pads having base plates attached to slide-in travelling pads that slide into grooves. For example, Wiesner shows the use of a travelling pad having a base plate that slides into guide grooves and has a means of retaining the travelling pad in the grooves.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone numbers

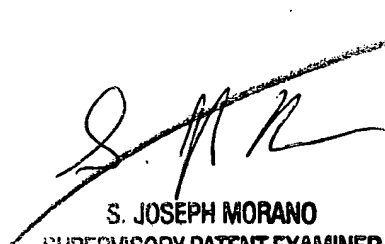
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for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



jrb
May 2, 2000



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